

SENATE BILL NO. 413

INTRODUCED BY MOSS, MUSGROVE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING REQUIREMENTS FOR THE DEPOSIT OF MONEY RECEIVED BY STATE AGENCIES; PROVIDING A PROCESS FOR A STATE AGENCY TO PROPOSE AND RECEIVE APPROVAL FOR A SPECIAL DEPOSIT SCHEDULE FOR MONEY COLLECTED BY THE AGENCY; AND AMENDING SECTIONS 15-1-232, 17-6-105, 23-1-105, 81-3-107, AND 87-1-601, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-232, MCA, is amended to read:

"15-1-232. Deposit of money. Money received by the department from the collection of taxes, fees, and debts is ~~not~~ subject to the timely deposit requirements of 17-6-105(6). ~~The department shall deposit all money within a reasonable time after receipt unless the department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8).~~"

Section 2. Section 17-6-105, MCA, is amended to read:

"17-6-105. State treasurer as treasurer of state agencies -- deposits of money. (1) The state treasurer is designated the treasurer of every state agency and institution.

(2) All state agencies ~~and institutions~~ shall deposit all money, credits, evidences of indebtedness, and securities either:

(a) in banks, building and loan associations, savings and loan associations, or credit unions located in the city or town in which the agencies ~~and institutions~~ are situated, if there is a qualified bank, building and loan association, savings and loan association, or credit union in the city or town as designated by the state treasurer with the approval of the board of investments; or

(b) with the state treasurer.

(3) Each bank, building and loan association, savings and loan association, or credit union shall pledge securities sufficient to cover 50% of the deposits at all times.

(4) The deposits must be made in the name of the state treasurer, must be subject to withdrawal at ~~his~~ the treasurer's option, and must draw interest as other state money, in accordance with the provisions of this part.



1 (5) ~~Nothing in this~~ This chapter shall ~~shall~~ does not impair or otherwise affect any covenant entered into
2 pursuant to law by any agency ~~or institution~~ respecting the segregation, deposit, and investment of any ~~revenues~~
3 revenue or funds pledged for the payment and security of bonds or other obligations authorized to be issued by
4 the agency, and all the funds must be deposited and invested in accordance with the covenants notwithstanding
5 any provision of this chapter.

6 (6) Except as otherwise provided by law and subject to subsection (8), all money, credits, evidences of
7 indebtedness, and securities received by a state agency ~~or institution~~ must be deposited ~~either~~ with the state
8 treasurer or in a depository approved by the state treasurer each day when the accumulated amount of coin and
9 currency requiring deposit exceeds ~~\$100~~ \$200 or total collections exceed ~~\$500~~ \$750. All money, credits,
10 evidences of indebtedness, and securities collected must be deposited at least weekly.

11 (7) ~~Notwithstanding any other provision of state law, when~~ Whenever the department determines that
12 it is determined to be in the best financial interest of the state, the department may require any money received
13 or collected by any agency ~~of the state~~ to be immediately deposited to the credit of the state treasurer.

14 (8) (a) An agency may propose a modified deposit schedule, including proposed internal controls, to the
15 department that is different from the deposit schedule requirements of subsection (6), except that the schedule
16 must require that deposits be made at least weekly. Upon receiving a proposal, the department shall transmit a
17 copy of the proposal to the board of investments. THE DEPARTMENT SHALL REVIEW THE PROPOSAL TO ENSURE THAT
18 DEPOSITS ARE MADE AT LEAST WEEKLY, UNLESS THE REQUESTING AGENCY SHOWS HARDSHIP DUE TO PEAK PROCESSING
19 TIMES.

20 (b) (i) The department shall review the proposal to ensure adequate internal controls over amounts to
21 be deposited.

22 (ii) The board of investments shall review the proposal to ensure that state assets and earnings on the
23 assets are maximized.

24 (c) (i) If the department and the board of investments each approves of the proposal, the department
25 shall notify the agency that the proposal is approved and the department and the agency may proceed to
26 implement the proposal.

27 (ii) If the department or the board of investments disapproves the proposal, the department shall notify
28 the agency that the proposal is disapproved.

29 (9) On or before September 15 immediately preceding a regular legislative session, the department shall
30 submit to the legislative fiscal analyst and the legislative auditor a report detailing all active accounts for which

1 a modified deposit schedule has been approved under subsection (8).

2 (10) For the purposes of this section, "agency" has the meaning provided in 17-1-104 and includes an

3 A agent or contractor of an agency if:

4 —— (a) the agent or contractor collects at least \$50,000 annually on behalf of the state from all sources; and

5 —— (b) the agent's or contractor's collections are not due exclusively to the sale of licenses or permits on

6 behalf of the department of fish, wildlife, and parks, provided for in 2-15-3401."

7

8 **Section 3.** Section 23-1-105, MCA, is amended to read:

9 **"23-1-105. Fees and charges.** (1) The department may levy and collect reasonable fees or other
10 charges for the use of privileges and conveniences that may be provided and to grant concessions that it
11 considers advisable, except as provided in subsections (2) and (6). All money derived from the activities of the
12 department, except as provided in subsection (5), must be deposited in the state treasury in a state special
13 revenue fund to the credit of the department.

14 (2) Overnight camping fees established by the department under subsection (1) must be discounted 50%
15 for a campsite rented by a person who is a resident of Montana, as defined in 87-2-102, and either 62 years of
16 age or older or certified as disabled in accordance with rules adopted by the department.

17 (3) For a violation of any fee collection rule involving a vehicle, the registered owner of the vehicle at the
18 time of the violation is personally responsible if an adult is not in the vehicle at the time the violation is discovered
19 by an authorized officer. A defense that the vehicle was driven into the fee area by another person is not
20 allowable unless it is shown that at that time, the vehicle was being used without the consent of the registered
21 owner.

22 (4) Money received from the collection of fees and charges is ~~not~~ subject to the deposit requirements
23 of 17-6-105(6). ~~The department shall deposit money collected under this section within a reasonable time after~~
24 ~~receipt unless the department has submitted and received approval for a modified deposit schedule pursuant to~~
25 17-6-105(8).

26 (5) There is a fund of the enterprise fund type, as defined in 17-2-102(2)(a), for the purpose of managing
27 state park visitor services revenue. The fund is to be used by the department to serve the recreating public by
28 providing for the obtaining of inventory through purchase, production, or donation and for the sale of educational,
29 commemorative, and interpretive merchandise and other related goods and services at department sites and
30 facilities. The fund consists of money from the sale of educational, commemorative, and interpretive merchandise

1 and other related goods and services and from donations. Gross revenue from the sale of educational,
 2 commemorative, and interpretive merchandise and other related goods and services must be deposited in the
 3 fund. All interest and earnings on money deposited in the fund must be credited to the fund for use as provided
 4 in this subsection.

5 (6) In recognition of the fact that individuals support state parks through the payment of certain motor
 6 vehicle registration fees, persons who pay the fee provided for in 61-3-321(18)(a) may not be required to pay a
 7 day-use fee for access to state parks. Other fees for the use of state parks and fishing access sites, such as
 8 overnight camping fees, are still chargeable and may be collected by the department."

9

10 **Section 4.** Section 81-3-107, MCA, is amended to read:

11 **"81-3-107. Fees for department -- deposit requirements.** (1) The department shall establish, charge,
 12 and collect a fee for recording a new mark or brand, for recording a mark or brand transfer, or for rerecording a
 13 mark or brand. The department shall establish and charge a fee for providing a certified copy of a record and a
 14 duplicate certificate. The department may upon request research mark or brand histories and may charge a fee
 15 of up to \$50 for each mark or brand, based on time involved in research. All fees collected must be paid into the
 16 state special revenue fund for the use of the department. However, not more than 10% of the net rerecording fees
 17 after all expenses of rerecording are paid may be expended in any 1 year except in case of an emergency
 18 declared by the governor or the board.

19 (2) Money collected as fees under subsection (1) is ~~not~~ subject to the deposit requirements of
 20 17-6-105(6) ~~but must be deposited by the department within a reasonable time after receipt~~ unless the
 21 department has submitted and received approval for a modified deposit schedule pursuant to 17-6-105(8)."

22

23 **Section 5.** Section 87-1-601, MCA, is amended to read:

24 **"87-1-601. Use of fish and game money.** (1) (a) Except as provided in subsections (7) and (9), all
 25 money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game
 26 or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or
 27 received by the department from any other state source must be turned over to the department of revenue and
 28 placed in the state special revenue fund to the credit of the department.

29 (b) Any money received from federal sources must be deposited in the federal special revenue fund to
 30 the credit of the department.

1 (c) All interest earned on money from the following sources must be placed in the state special revenue
2 fund to the credit of the department:

3 (i) the general license account;

4 (ii) the license drawing account;

5 (iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-411,
6 87-2-722, and 87-2-724; and

7 (iv) money received from the sale of any other hunting and fishing license.

8 (2) Except as provided in 87-2-411, the money described in subsection (1) must be exclusively set apart
9 and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be
10 made by the department under the terms of this title. The money described in subsection (1) must be spent for
11 those purposes by the department, subject to appropriation by the legislature.

12 (3) Any reference to the fish and game fund in Title 87 means fish and game money in the state special
13 revenue fund and the federal special revenue fund.

14 (4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited
15 bonds, except money collected or received by a justice's court, that relates to violations of state fish and game
16 laws under Title 87 must be deposited by the department of revenue and credited to the department in a state
17 special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and
18 game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the
19 fine is not imposed in addition to the costs of prosecution.

20 (5) (a) Except as provided in section 2(3), Chapter 560, Laws of 2005, money must be deposited in an
21 account in the permanent fund if it is received by the department from:

22 (i) the sale of surplus real property;

23 (ii) exploration or development of oil, gas, or mineral deposits from lands acquired by the department,
24 except royalties or other compensation based on production; and

25 (iii) leases of interests in department real property not contemplated at the time of acquisition.

26 (b) The interest derived from the account, but not the principal, may be used only for the purpose of
27 operation, development, and maintenance of real property of the department and only upon appropriation by the
28 legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or
29 state statutes specifically naming the department or money received by the department, then the use of this
30 money must be limited in the manner, method, and amount to those uses that do not result in a violation.

